

## **Remarks**

Claims 1-12 and 15-19 were pending in this application. Claims 1 and 15 have been amended, new claims 21-23 have been added, and no claims have been canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

### **Rejection of Claims 1-8, 10, and 15-19 Under 35 U.S.C. § 103(a) Over Savitzky and Khosla**

Claims 1-8, 10, and 15-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,571,271 issued to Savitzky et al. ("Savitzky") in view of U.S. Patent No. 6,202,061 issued to Khosla et al. ("Khosla"). Applicants have amended claims 1 and 15 herein to more particularly point out and distinctly claim the subject matter of the invention.

Independent claim 1 has been amended to recite "the at least one software agent including at least one set of user-specified criteria for selecting digital images, wherein for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata *over time* to *continually* evaluate and select digital images provided by the image server for distribution to the user" (emphasis added). Method claim 15 recites similar language, where support for these amendments can be found in the specification, for example, at p. 5, lines 17-30 and p. 7, lines 11-23. Accordingly, Applicants' invention advantageously provides a "standing order" for digital images with certain criteria, such that whenever images with metadata matching a set of user-specified criteria are created and made available at the image server, they are automatically distributed to the user without having to resubmit the set of criteria each time.

The Examiner admits that Savitzky does not disclose a software agent for automatically and repeatedly comparing user-specified criteria with digital image metadata, but asserts that Khosla discloses this feature. Applicants respectfully disagree, and assert that

Khosla does not disclose or suggest that each set of user-specified criteria is automatically and repeatedly compared with the available digital image metadata over time to continually evaluate and select digital images for distribution to the user as claimed by Applicants. In contrast, Khosla discloses a system and method wherein a user submits search criteria to a computer for selecting pictures at a particular point in time for arrangement in an electronic photo album. Therefore, in Khosla's system and method, once a search has been made of all databases or photo albums requested by the user and the resulting pictures displayed, the search request is satisfied and there is no need to maintain the request criteria or continue searching for additional photographs related to the request criteria.

As such, Khosla teaches away from Applicants' invention, since Applicants claim repeatedly comparing each set of user-specified criteria with available digital image metadata over time such that appropriate images can continue to be identified regardless of the point in time at which they are made available. Khosla does not recognize the problem solved by Applicants' claimed invention, namely the ability to automatically and repeatedly obtain images satisfying each set of user-specified criteria whenever the images become available without having to re-request the desired image type each time.

Therefore, claims 1 and 15 are believed to be patentably distinguishable over the combination of Savitzky and Khosla. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of these claims, along with their corresponding dependent claims, under 35 U.S.C. § 103(a).

**Rejection of Claims 9 and 11-12**  
**Under 35 U.S.C. § 103(a) Over Savitzky, Khosla, and Shiota**

Claims 9 and 11-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Savitzky in view of Khosla and U.S. Patent No. 6,337,712 issued to Shiota. Claims 9 and 11-12 depend from and contain all the limitations of independent claim 1 which, for the reasons stated above, is believed to be patentably distinguishable over Savitzky and

Khosla, either alone or in further combination with Shiotu. Accordingly, reconsideration and withdrawal of the rejection of these claims is also respectfully requested.

**New claims**

New independent claim 21 and claims 22-23 depending therefrom have been added to further define the invention. No new matter has been entered. Claim 21 recites that “for each set of user-specified criteria the at least one software agent automatically and repeatedly compares the user-specified criteria with the available digital image metadata over time to continually evaluate and select digital images provided by the image server for distribution to the user.” For the reasons described above, claim 21 and its corresponding dependent claims are also believed to be allowable over the cited art.

### **Conclusion**

In summary, Applicants believe that the claims now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

No fees are believed to be due in connection with this paper, however, please charge any necessary fees to our Deposit Account No. 02-3978.

Respectfully submitted,

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